

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 **RICHARD A. SILVER, M.D.**

4 Holder of License No. 5135
5 For the Practice of Allopathic Medicine
6 In the State of Arizona

Case No. MD-03-0951

**CONSENT AGREEMENT FOR
LETTER OF REPRIMAND**

7 **CONSENT AGREEMENT**

8 By mutual agreement and understanding, between the Arizona Medical Board
9 ("Board") and Richard A. Silver, M.D. ("Respondent"), the parties agreed to the following
10 disposition of this matter.

11 1. Respondent acknowledges that he has read and understands this Consent
12 Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent
13 Agreement"). Respondent acknowledges that he has the right to consult with legal
14 counsel regarding this matter and has done so or chooses not to do so.

15 2. Respondent understands that by entering into this Consent Agreement, he
16 voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on
17 the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the
18 Board, and waives any other cause of action related thereto or arising from said Consent
19 Agreement.

20 3. Respondent acknowledges and understands that this Consent Agreement is
21 not effective until approved by the Board and signed by its Executive Director.

22 4. All admissions made by Respondent are solely for final disposition of this
23 matter and any subsequent related administrative proceedings or civil litigation involving
24 the Board and Respondent. Therefore, said admissions by Respondent are not intended
25 or made for any other use, such as in the context of another state or federal government

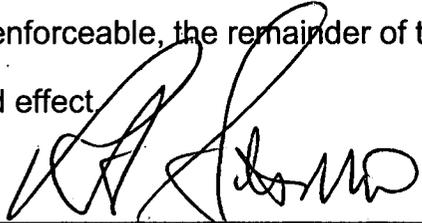


1 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
2 any other state or federal court.

3 5. Respondent acknowledges and agrees upon signing this Consent
4 Agreement, and returning this document (or a copy thereof) to the Board's Executive
5 Director, Respondent may not revoke acceptance of the Consent Agreement. Respondent
6 may not make any modifications to the document. Any modifications to this original
7 document are ineffective and void unless mutually approved by the parties.

8 6. Respondent further understands that this Consent Agreement, once
9 approved and signed, is a public record that may be publicly disseminated as a formal
10 action of the Board and will be reported to the National Practitioner Data Bank and to the
11 Arizona Medical Board's website.

12 7. If any part of the Consent Agreement is later declared void or otherwise
13 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force
14 and effect.



15
16 RICHARD A. SILVER, M.D.

15 DATED: 8/3/05
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FINDINGS OF FACT

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2 1. The Board is the duly constituted authority for the regulation and control of
3 the practice of allopathic medicine in the State of Arizona.

4 2. Respondent is the holder of license number 5135 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-03-0951 after receiving notification of a
7 medical malpractice settlement made on behalf of Respondent regarding his care and
8 treatment of a 17-year old patient ("AR"). On October 31, 1998 AR fractured her right
9 radius and ulna in a cheerleading accident. AR was initially seen at a hospital in Nogales,
10 Arizona and then transferred to a hospital in Tucson, Arizona ("Tucson Hospital").

11 4. Respondent was the on-call orthopedic surgeon at the Tucson Hospital on
12 October 31, 1998. Respondent examined AR and performed a manipulation and closed
13 reduction of a severe complex both-bone forearm fracture and casted AR's arm. On
14 November 4, 1998 the first post-operative x-rays of AR's arm were taken and the
15 alignment was noted as "good."

16 5. On November 30, 1998 AR had additional x-rays of her arm and the
17 alignment was noted as "satisfactory." On January 4, 1999 the x-rays of AR's arm
18 revealed a loss of position and loss of anatomical reduction. The angulatory change
19 measured about 25°-35°.

20 6. On January 18, 1999 AR was examined by another physician and, on
21 February 10, 1999, underwent additional surgery to reset the bones with internal fixation.

22 7. The standard of care requires that an adult patient presenting with a fracture
23 of both forearm bones should have an open reduction and internal fixation.

24 8. The Respondent deviated from the standard of care by performing a closed
25 reduction and casting of AR's arm.

1 9. As a result of Respondent's treatment of AR's injury, AR lost full pronation
2 and supination of her right forearm and had to undergo additional surgery.

3 **CONCLUSIONS OF LAW**

4 1. The Board possesses jurisdiction over the subject matter hereof and over
5 Respondent.

6 2. The conduct and circumstances described above constitute unprofessional
7 conduct pursuant to A.R.S. § 32-1401(27)(II) - ("conduct that the board determines is
8 gross negligence, repeated negligence or negligence resulting in harm to or the death of a
9 patient.

10 **ORDER**

11 IT IS HEREBY ORDERED THAT:

12 1. Respondent is issued a Letter of Reprimand for performing a closed
13 reduction and casting which resulted in loss of full pronation and supination of a forearm.

14 2. This Order is the final disposition of case number MD-03-0951.

15 DATED AND EFFECTIVE this 12th day of October, 2005.

16
17 [SEAL]



18 ARIZONA MEDICAL BOARD

19 By

A handwritten signature in black ink, appearing to read "Timothy C. Miller".

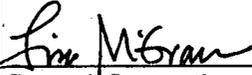
20 TIMOTHY C. MILLER, J.D.
21 Executive Director

22 ORIGINAL of the foregoing filed this
23 12th day of October, 2005 with:

24 Arizona Medical Board
25 9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

1 EXECUTED COPY of the foregoing mailed
2 this 12th day of October, 2005 to:

3 Richard A. Silver, M.D.
4 Address of Record

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7 Board Operations
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